

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION

AUTO-OWNERS INSURANCE COMPANY, )  
)  
Plaintiff, )  
)  
vs. )  
)  
JASON T. LAYMAN and Wife, )  
BRANDI M. LAYMAN, )  
THE HARTFORD, BETTY J. GRAVES )  
and Husband, ROBERT CARSON GRAVES, )  
DEERE & COMPANY, )  
CURTIS INDUSTRIES, LLC, )  
CURTIS TRACTOR CAB, INC., )  
aka FRED III INDUSTRIES BUSINESS )  
TRUST, and BURCH WOOD d/b/a )  
NEWPORT TIRE AND SERVICE CENTER, )  
)  
Defendants. )

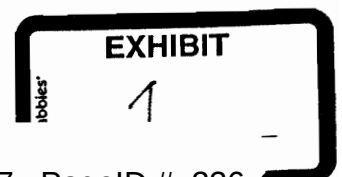
Case No. 3:09-CV-288

**AGREED ORDER OF JUDGMENT AS TO DEFENDANT BURCH WOOD D/B/A  
NEWPORT TIRE AND SERVICE CENTER**

The Court, with Plaintiff Auto-Owners Insurance Company ("Auto-Owners") and Defendant Burch Wood d/b/a Newport Tire and Service Center ("Burch Wood") having reached agreement and informed the Court of their agreement, hereby makes the following findings of fact as to Plaintiff Auto-Owners and Defendant Burch Wood:

1. The commercial general liability insurance policy, policy #044619-03996091-06, issued by Plaintiff Auto-Owners to Defendant Burch Wood only provides coverage for claims for bodily injury or property damage that occur during the policy period.

2. The commercial umbrella insurance policy, policy #44-996-091-02, issued by Plaintiff Auto-Owners to Defendant Burch Wood only provides coverage for claims for bodily injury or property damage that take place during the policy term.



3. The garage insurance policy, policy #44-996-091-00, issued by Plaintiff Auto-Owners to Defendant Burch Wood only provide coverage for claims of bodily injury or property damage that occur during the policy term.

4. The commercial general liability, commercial umbrella and garage insurance policies issued by Auto-Owners to Defendant Burch Wood were terminated for nonpayment of premiums on January 12, 2007.

5. The commercial general liability, commercial umbrella and garage insurance policies issued by Auto-Owners to Defendant Burch Wood were not in effect after January 12, 2007.

6. The lawsuit filed against Defendant Burch Wood in the Circuit Court for Jefferson County, Tennessee – *Jason T. Layman and Wife, Brandi M. Layman, Plaintiffs, and The Hartford, Intervening Plaintiff, v. Betty J. Graves and Husband Robert Carson Graves, Deere & Company, Curtis Industries, LLC, Curtis Tractor Cab, Inc., a/k/a Fred III Industries Business Trust, and Burch Wood d/b/a Newport Tire & Service Center*, Jefferson County Circuit Court, No. 21, 679-II (“the Action”) – alleges that Jason T. Layman and Brandi M. Layman suffered injuries as a result of an accident that occurred on March 13, 2007.

7. In the Action, Jason T. Layman, Brandi M. Layman and intervening plaintiff The Hartford seek to recover money damages from Defendant Burch Wood as a result of the March 13, 2007 accident.

8. At the time of the accident on March 13, 2007, neither the commercial general liability insurance policy, the commercial umbrella insurance policy nor the garage insurance policy issued by Plaintiff Auto-Owners to Defendant Burch Wood were in effect as the policies had been terminated as of January 12, 2007, for nonpayment of premiums.

The Court hereby makes the following conclusions of law as to Plaintiff Auto-Owners and Defendant Burch Wood:

1. Based on the aforementioned findings of fact, neither the commercial general liability insurance policy, the commercial umbrella insurance policy nor the garage insurance policy issued by Plaintiff Auto-Owners to Defendant Burch Wood provide coverage to Defendant Burch Wood for the claims made against him in the Action.

2. Plaintiff Auto-Owners does not, pursuant to either the commercial general liability insurance policy, the commercial umbrella insurance policy or the garage insurance policy, have a duty to defend Defendant Burch Wood in the Action.

3. Plaintiff Auto-Owners does not, pursuant to either the commercial general liability insurance policy, the commercial umbrella insurance policy or the garage insurance policy, have a duty to indemnify Defendant Burch Wood in the Action for any judgment entered against him in the Action.

It is therefore ORDERED, ADJUDGED and DECREED as follows:

1. Judgment is GRANTED in favor of Plaintiff Auto-Owners Insurance Company and against Defendant Burch Wood d/b/a Newport Tire and Service Center.

2. The Court DECLARES that Plaintiff Auto-Owners Insurance Company has no duty to defend Defendant Burch Wood d/b/a Newport Tire and Service Center in the action of *Jason T. Layman and Wife, Brandi M. Layman, Plaintiffs, and The Hartford, Intervening Plaintiff, v. Betty J. Graves and Husband Robert Carson Graves, Deere & Company, Curtis Industries, LLC, Curtis Tractor Cab, Inc., a/k/a Fred III Industries Business Trust, and Burch Wood d/b/a Newport Tire & Service Center*, Jefferson County Circuit Court, No. 21, 679-II, pursuant to the policies of insurance issued by Plaintiff Auto-Owners to Defendant Burch Wood.

3. The Court DECLARES that Plaintiff Auto-Owners Insurance Company has no duty to indemnify Defendant Burch Wood for any judgment entered against him in the action of *Jason T. Layman and Wife, Brandi M. Layman, Plaintiffs, and The Hartford, Intervening Plaintiff, v. Betty J. Graves and Husband Robert Carson Graves, Deere & Company, Curtis Industries, LLC, Curtis Tractor Cab, Inc., a/k/a Fred III Industries Business Trust, and Burch Wood d/b/a Newport Tire & Service Center*, Jefferson County Circuit Court, No. 21, 679-II, pursuant to the policies of insurance issued by Plaintiff Auto-Owners to Defendant Burch Wood.

4. Defendant Burch Wood has no liability to Plaintiff Auto-Owners for the cost of the defense provided to him in the Action through the date of this Order.

5. This judgment is a final judgment as to Defendant Burch Wood, and the Court determines that there is no just reason for delay.

Enter: 9/29/09

Thomas W. Phillips

Hon. Thomas W. Phillips

United States District Judge

Approved for entry:

s/Howard E. Jarvis

Howard E. Jarvis BPR #006673

Dean T. Howell BPR #022130

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*Attorneys for Plaintiff Auto-Owners Insurance Company*

See attached signature page

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Newport, TN 37821

See attached signature page

Jason S. Randolph, Esq. BPR 020950

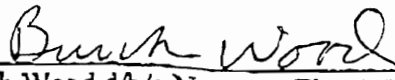
Post Office Box 828


Dandridge, TN 37725-0828

*Attorney for Burch Wood d/b/a Newport Tire & Service Center*

Approved for entry:

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*Attorney for Burch Wood d/b/a Newport Tire & Service Center*

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 25, 2009, a copy of the foregoing Agreed Order of Judgment as to Defendant Burch Wood d/b/a Newport Tire and Service Center was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

Via U.S. Mail to:

Burch Wood d/b/a Newport Tire and Service Center  
c/o Jason S. Randolph, Esq.  
Post Office Box 828  
Dandridge, TN 37725-0828

Curtis Industries, LLC & Curtis Tractor Cab, Inc. a/k/a Fred III Industries Business Trust  
c/o Daniel M. Gass, Esq.  
O'Neil, Parker & Williamson, PLLC  
P.O. Box 217  
Knoxville, TN 37901-0217

s/ Howard E. Jarvis, Esq.

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